Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 1, 21, 73, 74 and 101 of	)	WT Docket No. 03-66
the Commission's Rules to Facilitate the	)	RM-10586
Provision of Fixed and Mobile Broadband	)	
Access, Educational and Other Advanced	)	
Services in the 2150-2162 and 2500-2690	)	
MHz Bands	)	
	)	WT Docket No. 03-67
Part 1 of the Commission's Rules – Further	)	
Competitive Bidding Procedures	)	
	)	MM Docket No. 97-217
Amendment of Parts 21 and 74 to Enable	)	
Multipoint Distribution Service and the	)	
Instructional Television Fixed Service	)	
Amendment of Parts 21 and 74 to Engage in	)	
Fixed Two-Way Transmissions	)	
	)	WT Docket No. 02-68
Amendment of Parts 21 and 74	)	RM-9718
of the Commission's Rules With Regard to	)	
Licensing in the Multipoint	)	
Distribution Service and in the	)	
Instructional Television Fixed Service for the	)	
Gulf of Mexico		

Comments of Atlanta Interfaith Broadcasters, Inc.

Atlanta Interfaith Broadcasters, Inc. ("AIB"), licensee of Instructional Television Fixed Service ("ITFS") channels in Atlanta, Georgia, submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-referenced proceeding. In addition to its ITFS operations, AIB is the largest local faith-based cable network in the nation. Its unique blend of Catholic, Jewish, Moslem, Protestant, community, public service, and educational programs reaches more than 850,000 homes throughout metropolitan Atlanta over cable television systems. AIB has also become the

country's largest local producer of programming geared to the African-American community.

Summary

AIB supports restructuring the ITFS spectrum into one band for high-power video services and another band or bands for low-power broadband services. However, AIB recommends that the new rules on the purposes and permissible use of ITFS should be changed to parallel the rules for noncommercial educational TV stations. In addition, AIB supports the proposal for the Commission to sponsor auctions for ITFS licensees that wish to dispose of spectrum, but it recommends that the rights of ITFS licensees during and after the transition to the restructured spectrum be clarified.

Comments

1. ITFS Should Be for All Noncommercial Educational Uses.

For forty years, ITFS has been arbitrarily limited to the transmission of television programs to classrooms, i.e., instructional programming, and related uses. This micro-management of the spectrum has inhibited a far broader range of noncommercial educational uses for ITFS. The NPRM here wisely abandons the old restrictions on permissible use and allows any use that furthers the educational mission of accredited schools. But even this articulation is needlessly restrictive. The permissible use rules for ITFS should be patterned after those for noncommercial educational TV stations to include non-instructional educational services and noncommercial community and public services. This broader definition of permissible use will be particularly necessary with respective to broadband services, which hopefully will be used by licensees in new, but currently unforeseen, ways.

A. History of instructional telecommunications before ITFS.

Putting telecommunications to instructional use is an idea that has had two incarnations. The first began not long after the invention of radio. Visionaries then saw a future in which Americans would gather around radios to hear great lecturers. A short time later, the vision was put into practice. In PBS, Behind the Screen (1997), Laurence Jarvik described the early experiments with using radio for instructional purposes:

> The University of Wisconsin's radio station, WHA, considered the country's first educational broadcaster, officially went on the air in 1919, though it had actually started in 1917 as experimental station 9XM. The station's purpose was "to share with the people of the state the advantages of learning on the campus." After ten years, WHA came to specialize in three kinds of programs typical of educational broadcasting at that time: agricultural information for farmers (The Farm Program); domestic science for housewives (The Homemakers' Hour); and University of Wisconsin Extension talks for students. In 1931, the university established the "Wisconsin School of the Air," and two years later it began its "College of the Air" broadcasts, offering courses for credit. In 1921, Brigham Young University became the country's second educational broadcaster, its radio license granted to "the Latter Day Saints University." It brought instructional programming similar to the Wisconsin prototype to listeners in Utah.

Id. at 5.

These early experiments with instructional radio obviously did not take hold, but the educational broadcasters evolved into today's noncommercial radio and televisions stations, providing a far broader mix of educational, cultural, and entertainment programming to both schools and the general public.

The idea of using the airwaves for instructional purposes was reborn after the Soviet Union launched the first man-made satellite in 1957. Sputnik's incessant beeping, which could be heard on radios around the world, was a galling reminder that the Soviet Union was the first into space. To some, Sputnik was also proof that the Soviets had surpassed the U.S. in science and that America was a second-rate power in education.

There was talk of an "education gap." Instructional television seemed to be one way to close this gap. To this end, the NBC television network aired Continental Classroom for a brief time. Professor Harvey White of the University of California taught a for-credit course in physics.[1] Students in the Eastern Time Zone could get up at 6:30 a.m. to attend class on television. For those farther west, class started even earlier.

This atmosphere of an allegedly failed educational system still prevailed when Congress passed the Educational Television Act on May 1, 1962. The purpose of the law was to fund construction of educational broadcasting facilities. However, the Senate Report on the legislation shows Congress was more concerned with instructional uses of the medium than with conventional educational broadcasting: "Current research and experimentation on a local and regional basis has only scratched the educational surface in revealing the unlimited potential that exists in the field of television as an educational tool." Senate Report No. 67, 1962 U.S. Code Congressional and Administrative News 1614, 1615.

Indicative of Congress' expectations, the Report quoted the testimony of Dr. Charles H. Boehm, superintendent of public instruction in Pennsylvania:

> Educational television offers vast possibilities for the solution of many of our most serious education problems.... High school and college diplomas are given and have, for several years, been given to students who have completed television courses. Only through educational television can courses given by the Nation's best teachers reach ambitious students in small communities, in the remote and sparsely populated areas of the country.

Ibid.

The Report saw the same future for instructional uses of television as earlier visionaries had seen for radio:

[1] See, Verne A. Stadtman, The Centennial Record of the University of California (1967).

> The greatest minds of our time can share their knowledge with pupils all over the country and eventually all over the world. Their skill, their knowledge, and their experience can be brought to the small schools located thousands of miles away through the medium of television.

Id. at 1616.

Indeed, the Report continued: "There exists today an educational gap that is as far reaching [sic] in its implication as any so-called gap that might confront our country. In this instance, in the opinion of your committee, a good way, and surely a quick way, of closing the gap is through television." Id. at 1619.

Congress at the time wanted not just educational programming broadcast to the home, which was the point of the legislation; it wanted television sets in the schools. It wanted what John L. Burns, president of television set manufacturer RCA, testified about:

> At Hagerstown, Md., four teachers now provide music and art lessons that would have required 34 teachers before television. In Dade County, Fla., the use of cafeterias and auditoriums for large TV classes has permitted 30 percent more pupils to use each school building, saving $3 million in capital construction costs alone.

Ibid. Congress even seemed to want what Montpelier, Indiana had in mind, an airplane circling 23,000 feet above the town broadcasting educational programs to schools. Id. at 1617.

In short, the Senate Report accompanying the landmark 1962 educational television legislation shows a Congress infatuated with inflated claims about the potential for instructional use of television.

B. History of Commission Proceedings on ITFS.

The Commission released its first Notice of Proposed Rulemaking for Educational Television Fixed Stations on July 25, 1962, less than three months after passage of the

Educational Television Act. 27 FR 7739 (Aug. 4, 1962). Significantly, the word "Educational" in the name of the service would be changed to "Instructional" by the final order. The Commission announced that it wanted two different educational operations:

> There is a need for a broadcast type of operation whereby educational and cultural material as well as selected types of entertainment are transmitted for the purpose of being received by the general public on conventional television receivers located in individual homes. There is also a need for the transmission of instructional material to selected receiving locations for display on conventional TV receivers located in classrooms, lecture halls, industrial plants, hospitals, rehabilitation centers, and other similar places, as well as a limited number of private homes.

Ibid.

The Commission felt instructional applications would require "the use of more than one channel if courses in different subjects are to be given simultaneously." Ibid.

In a test of the concept and technology before release of the notice, an equipment manufacturer had installed a system for the Union Free School District Number 18 in Plainedge, New York, to serve seven school buildings scattered through the town. The Commission estimated the cost of such a system to be between one-fifth and one-third the cost of a broadcast station. Ibid.

The Notice of Proposed Rulemaking envisioned a much more expansive permissible use for these Educational Television Fixed Station than the one that would emerge in the final rules. The Commission suggested:

> Operated as a private system rather than a broadcasting system, transmission could include subject material for supervised instruction; training material in special skills; safety programs; material designed for the rehabilitation of the aged, infirm, or mentally disturbed; clinical studies; new arts and crafts; material intended to keep professional and semi-professional people abreast of the state of the art in various fields; in-service training for teachers; instructional material for shut-ins; program material for purposes of entertainment or cultural advancement; as well as administrative traffic.

Id. at 7740 (emphasis added). The Commission also contemplated that the Fixed Service might be used to relay signals from noncommercial educational broadcast stations to classrooms.

But, a year later, when the Commission adopted final rules, the scope of the service was reduced from the broad view in the Notice – which would have allowed ITFS stations to be used for much the same purposes as educational broadcast stations -- to the far narrower conceit of a purely instructional service: "[T]he most important function of the new service would be to reach groups of students assembled in classrooms or other similar places for the specific purpose of using the instructional material so transmitted." Educational Television Report and Order, Docket No. 14744 ("ETV Order"), 39 F.C.C. 846 (1963), recon. denied, 39 F.C.C. 873 (1964).

The Commission observed that it was creating the new service to avoid unnecessary use of television broadcast channels for instructional purposes. It wanted to leave those available for "the transmission of cultural and educational programs designed for reception by the general public on receivers located in individual homes." Ibid. ITFS, rather than educational broadcasting, would provide the instructional function that had captured Congress' fancy.

Of course, this does not explain why the decision was made to confine ITFS stations to instructional and related uses. The Commission could have given ITFS the same latitude in programming that educational broadcast stations had. This is essentially what the Notice of Proposed Rulemaking wanted. But, the Commission's final decision narrowed the scope of permissible service without explanation.

Perhaps the Commission feared that demand for the frequencies would exceed supply. Indeed, so stingy was the Commission with the spectrum that the 1963 rules required directional transmitting and receiving antennas to be used.[2] If an applicant for these frequencies desired that its signal be picked up at other than designated receive sites, e.g., if it wanted to broadcast, the new rules required the application to "include a complete statement as to the purpose of such additional reception." [3]

The Commission worried in the opposite direction as well. Fearing that it may have allocated too much spectrum to ITFS, the ETV Order promised that the matter would be revisited in three years. 39 F.C.C. 851.

In any event, despite the fact that the 1963 decision to restrict ITFS to instructional use was arbitrary, the Commission would give it considerable, and undeserved, deference thereafter.

It was seven years before the promised Further Notice of Proposed Rulemaking on ITFS was issued,[4] and a year after that before the Commission would release its Second Report and Order on ETV, 30 F.C.C. 2d 197 (1971). This second ruling determined that 28 of the 31 channels originally earmarked for ITFS should be allocated to ITFS and three to Operational Fixed Service and International Control stations. But in the same opinion, the Commission confessed it really had no policy for instructional television: "It is possible that, in view of the emphasis being placed on education at all levels, formal and informal, children and adults coupled with the development of new technology and methods of transmission (cable, satellite, etc.), formation of a policy regarding educational communication may be needed." Id. at 199. Later in the opinion,

[2] ETV Order, 39 F.C.C. 867, Rule 4.937(a) and (b).
[3] *Id*. at 865, Rule 4.932(c).

the Commission again emphasized that it needed to be educated about education, saying there probably should be "a review of the entire educational communication policy at some time in the near future." Id. at 200.

The promised policy review never materialized. Instead, in 1983 the Commission's focus shifted to multi-channel, multi-point distribution (broadcasting via microwave) of commercial programming, and it decided to allow ITFS licensees to use or lease their excess capacity for this purpose. Instructional TV Fixed Service, 94 F.C.C. 2d 1203 (1983). The Commission thought leasing was consistent with the instructional character of ITFS because the ITFS licensee could use the facility for instructional purposes during the day and the commercial entity could use it at night for what later was known as wireless cable, i.e., the transmission of entertainment program to public subscribers.

In fact, the Commission's decision in 1983 to allow leasing represented a fundamental change it the way it viewed ITFS. In 1963, the Commission thought of ITFS as point-to-point service. It was primarily intended to allow schools districts to beam television programs to classrooms scattered about a community. Licensees wishing to broadcast in all directions needed Commission approval. But of course, wireless cable was in reality a broadcast service. Hence, the Commission's decision in 1983 to allow ITFS to be used for broadcasting by commercial operators changed completely the original concept of ITFS although the opinion fails to recognize this. This has produced the strange result that the "essential use" of ITFS has been a point-to-point transmission whereas the "excess capacity" has been used for broadcasting.

[4] It was released on June 23, 1970 and published in the Federal Register on June 26, 1970 (35 FR 10462).

The rules for leasing excess capacity were further liberalized and refined by two subsequent decisions. Instructional Television Fixed Service, 98 F.C.C. 2d 129 (1984), and Instructional Television Fixed Service Second Report and Order, 101 F.C.C. 2d 50 (1985). The Commission acknowledged that these decisions would tend to commercialize the ITFS spectrum. However, it reasoned, the commercial operations were one way to provide funds for building more ITFS facilities. 101 F.C.C. 2d 86.

By the early 1990s, the Commission was again adjusting the rules, this time for the explicit benefit of wireless cable operations. In Wireless Cable Order, 5 F.C.C. Rcd 6410 (1990), the Commission said rule changes were needed "to afford wireless cable operators a more accommodating regulatory framework." On reconsideration, the Commission characterized the proceeding as one that was "to facilitate the provision of 'wireless cable' to the public." 6 F.C.C. Rcd 6764 (1991).

Thus, the history of instructional television is a twisted tale. The demise of the early experiments with instructional radio should have served as a warning that a purely instructional television service might not be the best way for the spectrum to serve education. Nonetheless, swayed by rosy congressional dreams for the future of such a service, the Commission launched ITFS in 1963 although it never explained the rationale for highly restrictive limits on use of the service. What is more, the Commission opined as early as 1971 that it really should have an educational communications policy, but it never adopted one. For forty years, the Commission uncritically followed Congress' misbegotten notion of a purely instructional television service and yet was always baffled by why the service appeared underutilized.

C. The instructional approach is arbitrary, inconsistent, and wasteful.

Regardless of the original intent of the instructional restriction, it makes no sense today. It is a litmus test that measures nothing. A licensee engages in a permissible use even though its facility serves only a handful of students. If one student in one classroom in New York City gets instructional programming via ITFS, the whole system qualifies. If instead, the system transmits educational programming, e.g., unaccredited language, job training, or health care programs, to community centers where thousands might gather or to the public, it does not qualify. Moreover, under certain circumstances, an ITFS licensee may devote 95% of its capacity to the transmission of commercial entertainment programming to the home, but it may not use the other 5% to broadcast noncommercial educational programming to the public unless at least one student watches it for credit.

For the past forty years, the Commission has advanced several inconsistent and diverging ideas about ITFS.

First, the Commission has never determined precisely how the service would be used in education. When the Notice of Proposed Rulemaking for Educational Television Fixed Service was released in 1962, the Commission said that elementary and secondary schools would be the principal users. By 1983, however, the Commission was projecting that ITFS was more likely to serve graduate level training in the workplace of engineers, scientists, and other professionals than it was to serve elementary, junior high, and high schools. Instructional TV Fixed Service, 94 F.C.C. 2d 1203, 1216-20.

In the 1962 Notice of Proposed Rulemaking, the Commission cited the experimental educational fixed station in Plainedge, New York as an example of what it wanted to accomplish. That station was feeding programming to seven school buildings in the town. The Commission reasoned that multiple channels would be necessary in order to allow school systems to transmit multiple instructional programs simultaneously. The Commission's reasoning stayed consistent through 1983 when ITFS licensees were allowed to lease excess capacity. The Commission said the schools would use the transmitters during the day and the commercial operators would use them at night.

But in 1991, the time-of-day requirement was eliminated. As a result, that first, experimental ITFS station in Plainedge, New York, operated by public television station WLIW21, now transmits its instructional programming between the hours of 1 a.m. and 6 a.m. Teachers must tape record and replay on a VCR any programs they want to show their students.[5] Thus, an original concept of ITFS – live instructional programming – has been completely abandoned.

Second, perceptions about the economics of ITFS have varied over time. Instructional television originally was said to be less expensive than conventional methods of instruction. For example, RCA president John L. Burns said in his testimony before Congress that Dade County, Florida saved $3 million by using cafeterias and auditoriums for TV classrooms -- rather than building more classrooms and hiring more teachers. In other words, schools systems should expect to save money by building ITFS facilities. Yet in 1985, the Commission justified leasing excess capacity to commercial operators by saying that school systems were not willing to devote scarce financial

resources to ITFS. Schools apparently saw ITFS as a luxury. In the least, they were calculating the value of instructional television differently from the way the Congress and the Commission were.

Third, the instructional requirement is wasteful. Licensees, who may have innovative ideas for how better to use the spectrum, are locked into antiquated notions (which may not have been valid in the first place) about how to use communications to educate. For example, use of ITFS as an on-campus wireless cable system is not an instructional use. Likewise, a university media department could not claim instructional use in transmitting its own original programming to campus and town. Indeed, the Commission has always said that beaming programming to a classroom is the core use of the facility. When the United States Catholic Conference outlined a broader vision for ITFS in comments filed in the 1984 proceeding on leasing to commercial operators, the Commission dismissed the proposal, which included broadcasting educational material to the public, saying: "It appears that some of what is to be transmitted is not...instructional." 94 F.C.C. 2d 1218-19. The result is that educators with new and different ideas for how the spectrum might be used are still restricted by the post-Sputnik mentality that instructional television will help close a non-existent educational gap with the Soviet Union.

In sum, the narrow permissible use rules have been arbitrary, inconsistent, and wasteful. The Commission never explained its reasons for confining the service to instructional uses when it first adopted the rules in 1963 after a far broader use had been proposed. Moreover, despite the dubious origins of this limitation, the Commission later

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[5] "ITV's schedule is created on the school-year calendar, and programs are generally broadcast in the early morning hours between 1:00-6:00 AM, unless otherwise noted. Please set your VCR carefully!"

seized on it and declared it an essential use of ITFS in its later attempts to control commercial leasing. The net effect has been a wasteful, needless strangling of innovation in noncommercial educational uses of the service. The point is not that schools cannot use the spectrum. They can. The point is that forcing students to watch television in the classroom should not be the essential use.

D. The permissible use should be consistent with the idea of protected service areas.

The NPRM here proposes to create protected service areas in which ITFS licensees will operate. This conceives ITFS to be an omnidirectional service. It is a far cry from the Commission's concept of ITFS in 1963 as a service that would transmit instructional programming to classrooms in a narrow point-to-point beam.

The permissible use should reflect this changed concept of the service. It makes no sense to give a licensee a protected service area – which implies an omni-directional signal -- and not permit the licensee to use it. Under-utilization of the spectrum is a foregone conclusion if the permissible use is more restrictive that the carrying capacity of the spectrum. A protected service area will give licensees the exclusive right to cover every square inch of their service area; the permissible use rules should do the same. The permissible use of ITFS should be defined as broadly as the spectrum rights.

E. ITFS licensees should be permitted to engage in the same uses as noncommercial educational television stations.

The NPRM proposes to allow ITFS licensees to engage in any use that furthers an educational mission of an accredited school. This is a substantial improvement over existing restrictions on permissible use. However, the proposal still suffers from the

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http://www.wliw.org/itv/schedule/.

problem that has plagued ITFS since its inception, i.e., that the Commission is trying to micromanage how educators may use the spectrum.

Two examples suggest the wide range of problems that could arise under the rule as proposed in the NPRM. First, what if a licensee wants to use its ITFS to broadcast a wide assortment of noncommercial television programming to the public with the basic intent of benefiting its surrounding community rather than furthering a more narrow, educational mission? Why disallow such use – particularly in light of the fact that the alternative is probably a commercial use?

Second, what if a university uses the new ITFS broadband frequencies for a wireless metropolitan area network ("MAN") to provide Internet access both to students and to the surrounding community? Presumably, student use of the MAN would qualify under the proposed rule, but the publicly accessible MAN would not. This makes no sense. If the university's MAN has excess capacity – and most probably would – why not let it serve its community on a noncommercial basis? Educational broadcaster WETA in Washington D.C. operates CapAccess, an Internet Web site billed as "Greater Washington's Community Network." Why not allow ITFS licensees to do the same and build a community wireless network if they choose?

The permissible use rules for ITFS should be adapted from those for noncommercial television.[6] This would be in line with the Commission's idea

[6] 73 CFR Section 621 provides in relevant part: (c) Noncommercial educational television broadcast stations may transmit educational, cultural and entertainment programs, and programs designed for use by schools and school systems in connection with regular school courses, as well as routine and administrative material pertaining thereto. (d) A noncommercial educational television station may broadcast programs produced by or at the expense of, or furnished by persons other than the licensee, if no other consideration than the furnishing of the program and the costs incidental to its production and broadcast are received by the licensee.

in the 1962 Notice of Proposed Rulemaking. Underlying the NPRM here seems to be the assumption that there will be conversion of ITFS to commercial use. If the spectrum is going commercial, what is the harm in giving ITFS licensees as much flexibility as possible to use the spectrum for noncommercial educational purposes?

Therefore, AIB urges that the purpose and permissible use rules for ITFS parallel those for noncommercial educational television stations, contemplating service both to schools and to the public. The existing rules grew out of notions that were tried and abandoned by radio in the 1920s. They were promulgated in 1963 when the United States, embarrassed by Sputnik, believed there was an education gap with the Soviets that could be closed by having students watch more television rather than less. And, they were continued for forty years despite the fact that the Commission encouraged ITFS licensees to hand over the spectrum to commercial users for entertainment broadcasts through lease arrangements. It makes no sense to continue these restrictions on use. It makes no sense for the commission to define narrowly how the spectrum should be used in education.[7]

2. The Commission Should Clearly Define the Rights of Existing Licensees in the Reorganization of the Spectrum.

AIB supports the proposal to divide the existing spectrum into separate bands for a high-power video service and a low-power broadband service. AIB believes that there will be a demand for such high-power video services once restructuring of the spectrum is complete and restrictions on use of the service are eased.

[7] Ironically, while ITFS was restricted to purely instructional uses and while commercial operators were leasing excess capacity on these systems in a failed attempt to provide wireless cable, the so-called e-rate program to connect schools to the Internet was launched. The ITFS band had 168 MHz of spectrum that

As stated in the previous section, one impediment to video services has been the restriction on use under the current rules. ITFS is thought of in terms either of classroom television or commercial wireless cable. It has not been allowed to follow the non-commercial educational broadcasting model.

A second impediment has been receiver technology. Until recently, receivers in the ITFS spectrum were relatively expensive and relatively large. However, if the spectrum is divided into a high-power video service and a low-power broadband service that is suitable for portable use, then the receiver problem that has plagued ITFS in the past may evaporate. Any device that could pick up the broadband services, e.g. laptop computer, PDA, Web-phone, may be able to receive the high-power video service as well. Hence, the video service could be a popular compliment to the broadband service. ITFS licensees should be allowed to explore the possibilities of developing a video service for the expected new class of receivers.

Unfortunately, the NPRM in this matter reviews various proposals for a transition from the old to the new spectrum environment without articulating clearly the rights of existing licensees. AIB believes the Commission intends that each existing licensees will retain one 6 MHz channel for video service. If so, this should be stated explicitly. The confusion stems in part from the suggestion in the NPRM that no existing licensee will be forced to lose a channel that currently carries instructional programming. This suggestion raises at least theoretical problems. In some areas, there may be more video channels in use now than will be available after the restructuring. AIB believes the

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could have been used for wireless Internet access -- the very thing the instant proceeding proposes. In hindsight, ITFS should have been available for noncommercial broadband in the 1990s.

solution is for the Commission to state explicitly that existing licensees will be guaranteed at least one 6 MHz video channel.

3. The Commission Should Sponsor Two-Sided Auctions on behalf of ITFS Licensees

AIB supports the proposal in the NPRM for the Commission to sponsor so-called two-sided auctions that would allow existing ITFS licensees to sell spectrum. This would be a useful alternative to transferring licenses through private transactions. The Commission should not preclude the private transfer option; however, public auctions may give fairer pricing signals to buyers and sellers.

Still, there are potential problems with two-sided auctions. First is the matter of the timing. Holding such auctions too soon will likely produce an undervaluation of the spectrum. In the least, the auction should not be held until the Commission expects buyers are prepared to build. There is no reason to shut down existing ITFS services or encourage the early demise of noncommercial uses of the spectrum if commercial buyers are allowed to acquire ITFS licenses but then warehouse the spectrum.

Second is the matter of the excess capacity leases. ITFS licensees, who have leased their facilities, cannot "buy back" their licenses in an auction as easily as suggested in paragraph 244 of the NPRM. The lessees will likely assert claims to a portion of the proceeds of any auction. If so, this will not be a cost-free solution for a licensee.

Conclusion

For the foregoing reasons, AIB suggests that the permissible use of ITFS be conformed to those for noncommercial educational television stations, that existing ITFS

licensees be guaranteed a 6 MHz video channel after restructuring, and that the Commission sponsor two-sided auctions.

Respectfully submitted,

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